

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DERRICK HOLMES,) 8:05CV369

)

Plaintiff,)

)

vs.)

)

CITY OF OMAHA, OMAHA POLICE)

DEPARTMENT, DON CAREY,)

Chief of Police, Individually and in)

his official capacity; Omaha Police)

Officer DEREK MOIS, Individually)

and in his official capacity; Omaha)

Police Officer DAVID WESTBROOK,)

Individually and in his official capacity;)

Omaha Police Officer ROSEMARY)

BURDESS, individually and in her)

official capacity; Omaha Police Officer)

THOMAS LOFTUS, Individually and)

in his official capacity; Omaha Police)

Sgt. SOKOLIK, Individually and in)

his official capacity;)

JOHN DOES 1-10,)

)

Defendants.)

**MEMORANDUM
AND ORDER**

This matter is before the court upon a upon the Report and Recommendation that this matter be dismissed (filing 32). No objections to such Report and Recommendation have been filed, as allowed by 28 U.S.C. § 636(b)(1)(C) and NELR 72.4.

I have reviewed the Magistrate Judge's Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1) and NELR 72.4, and I find after de novo review that the Recommendation should be adopted. The Magistrate Judge entered a November 28, 2005 order (filing 31) giving Plaintiff 20 days to obtain counsel, file a motion for the appointment of counsel, or indicate that he will proceed without counsel, and giving notice that noncompliance would lead to dismissal. Plaintiff has failed to comply with that order. Accordingly, pursuant to the terms of the court's prior order (filing 31), Fed. R. Civ. P. 41, and NELR 41.1, the court finds that Plaintiffs' claims against the defendants should be dismissed without prejudice.

IT IS ORDERED:

1. The Report and Recommendation (filing 32) is adopted;
2. This case is dismissed without prejudice; and
3. Judgment shall be entered by separate document.

February 1, 2006.

BY THE COURT:

s/Richard G. Kopf
United States District Judge